

JOURNAL OF THE HOUSE

First Extraordinary Session, 91st GENERAL ASSEMBLY

SEVENTH DAY, THURSDAY, SEPTEMBER 13, 2001

Speaker Kreider in the Chair.

Prayer by Reverend Rudy Beard.

Teach us, Gracious God, to serve You as You deserve to be served. Keep these Your servants in this House, alert to the important things in our life and in our State: Your eternal truth, our families, working for the right and the just, helping those who need help.

Amid the noise, the hate and the hunger of our society, help these men and women hear the “still small voice” that You give to all who listen. Bless them and to You be glory and honor. Amen.

The Pledge of Allegiance to the flag was recited.

The Speaker appointed the following to act as an Honorary Page for the Day, to serve without compensation: Andrea Jean Baker.

The Journal of the sixth day was approved as corrected by the following vote:

AYES: 150

Abel	Baker	Ballard	Barnett	Barnitz
Barry 100	Bartelsmeyer	Bartle	Bearden	Behnen
Berkowitz	Berkstresser	Black	Bland	Boatright
Bonner	Boucher	Bowman	Bray 84	Britt
Brooks	Burcham	Burton	Byrd	Carnahan
Champion	Cierpiot	Clayton	Coleman	Cooper
Copenhaver	Crawford	Crowell	Crump	Cunningham
Curls	Daus	Davis	Dempsey	Enz
Fares	Farnen	Foley	Franklin	Fraser
Froelker	Gambaro	Gaskill	Graham	Gratz
Green 15	Griesheimer	Hagan-Harrell	Hampton	Hanaway
Harding	Harlan	Hartzler	Haywood	Hegeman
Henderson	Hendrickson	Hickey	Hilgemann	Hohulin
Holand	Hollingsworth	Holt	Hoppe	Hosmer
Hunter	Jetton	Johnson 61	Johnson 90	Jolly
Kelley 47	Kelly 144	Kelly 27	Kelly 36	Kennedy
King	Koller	Lawson	Legan	Levin
Liese	Linton	Long	Lowe	Luetkemeyer
Luetkenhaus	Marble	Marsh	May 149	Mayer
Mays 50	McKenna	Merideth	Miller	Monaco
Moore	Murphy	Myers	Naeger	Nordwald
O'Connor	O'Toole	Ostmann	Overschmidt	Phillips
Portwood	Quinn	Ransdall	Rector	Reid
Reinhart	Relford	Reynolds	Richardson	Ridgeway

Roark	Robirds	Ross	Scheve	Schwab
Scott	Secrest	Seigfreid	Selby	Shelton
Shields	Shoemyer	Skaggs	Smith	St. Onge
Surface	Thompson	Townley	Treadway	Villa
Vogel	Wagner	Walton	Ward	Whorton
Williams	Willoughby	Wilson 25	Wilson 42	Mr. Speaker

NOES: 002

Lograsso Wright

PRESENT: 001

Ford

ABSENT WITH LEAVE: 009

Boykins	Campbell	Dolan	George	Green 73
Purgason	Rizzo	Troupe	Van Zandt	

VACANCIES: 001

On motion of Representative Crump, the House recessed until 12:30 p.m.

The hour of recess having expired, the House was called to order by Speaker Kreider.

MESSAGES FROM THE SENATE

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate has taken up and passed **SS SCS HS HCS HB 3**, entitled:

An act to repeal section 135.095, RSMo, relating to the Missouri Senior Rx Program, and to enact in lieu thereof ten new sections relating to the same subject, with an expiration date for certain sections, an emergency clause and penalty provisions.

With Senate Substitute Amendment No. 1 for Senate Amendment No. 1, Senate Amendment No. 2, Senate Amendment No. 5 and Senate Substitute Amendment No. 1 for Senate Amendment No. 7

Senate Substitute Amendment No. 1 for Senate Amendment No. 1

AMEND Senate Substitute for Senate Committee Substitute for House Substitute for House Committee Substitute for House Bill No. 3, Page 2, Section 135.095, Line 14 of said page, by inserting immediately after said line the following:

“208.151. 1. For the purpose of paying medical assistance on behalf of needy persons and to comply with Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. Section 301 et seq.) as amended, the following needy persons shall be eligible to receive medical assistance to the extent and in the manner hereinafter provided:

- (1) All recipients of state supplemental payments for the aged, blind and disabled;
- (2) All recipients of aid to families with dependent children benefits, including all persons under nineteen years of age who would be classified as dependent children except for the requirements of subdivision (1) of subsection 1 of

section 208.040;

(3) All recipients of blind pension benefits;

(4) All persons who would be determined to be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits under the eligibility standards in effect December 31, 1973, or less restrictive standards as established by rule of the division of family services, who are sixty-five years of age or over and are patients in state institutions for mental diseases or tuberculosis;

(5) All persons under the age of twenty-one years who would be eligible for aid to families with dependent children except for the requirements of subdivision (2) of subsection 1 of section 208.040, and who are residing in an intermediate care facility, or receiving active treatment as inpatients in psychiatric facilities or programs, as defined in 42 U.S.C. 1396d, as amended;

(6) All persons under the age of twenty-one years who would be eligible for aid to families with dependent children benefits except for the requirement of deprivation of parental support as provided for in subdivision (2) of subsection 1 of section 208.040;

(7) All persons eligible to receive nursing care benefits;

(8) All recipients of family foster home or nonprofit private child-care institution care, subsidized adoption benefits and parental school care wherein state funds are used as partial or full payment for such care;

(9) All persons who were recipients of old age assistance benefits, aid to the permanently and totally disabled, or aid to the blind benefits on December 31, 1973, and who continue to meet the eligibility requirements, except income, for these assistance categories, but who are no longer receiving such benefits because of the implementation of Title XVI of the federal Social Security Act, as amended;

(10) Pregnant women who meet the requirements for aid to families with dependent children, except for the existence of a dependent child in the home;

(11) Pregnant women who meet the requirements for aid to families with dependent children, except for the existence of a dependent child who is deprived of parental support as provided for in subdivision (2) of subsection 1 of section 208.040;

(12) Pregnant women or infants under one year of age, or both, whose family income does not exceed an income eligibility standard equal to one hundred eighty-five percent of the federal poverty level as established and amended by the federal Department of Health and Human Services, or its successor agency;

(13) Children who have attained one year of age but have not attained six years of age who are eligible for medical assistance under 6401 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989). The division of family services shall use an income eligibility standard equal to one hundred thirty-three percent of the federal poverty level established by the Department of Health and Human Services, or its successor agency;

(14) Children who have attained six years of age but have not attained nineteen years of age. For children who have attained six years of age but have not attained nineteen years of age, the division of family services shall use an income assessment methodology which provides for eligibility when family income is equal to or less than equal to one hundred percent of the federal poverty level established by the Department of Health and Human Services, or its successor agency. As necessary to provide Medicaid coverage under this subdivision, the department of social services may revise the state Medicaid plan to extend coverage under 42 U.S.C. 1396a (a)(10)(A)(i)(III) to children who have attained six years of age but have not attained nineteen years of age as permitted by paragraph (2) of subsection (n) of 42 U.S.C. 1396d using a more liberal income assessment methodology as authorized by paragraph (2) of subsection (r) of 42 U.S.C. 1396a;

(15) The following children with family income which does not exceed two hundred percent of the federal poverty guideline for the applicable family size:

(a) Infants who have not attained one year of age with family income greater than one hundred eighty-five percent of the federal poverty guideline for the applicable family size;

(b) Children who have attained one year of age but have not attained six years of age with family income greater than one hundred thirty-three percent of the federal poverty guideline for the applicable family size; and

(c) Children who have attained six years of age but have not attained nineteen years of age with family income greater than one hundred percent of the federal poverty guideline for the applicable family size. Coverage under this subdivision shall be subject to the receipt of notification by the director of the department of social services and the revisor of statutes of approval from the secretary of the U.S. Department of Health and Human Services of applications for waivers of federal requirements necessary to promulgate regulations to implement this subdivision. The director of the department of social services shall apply for such waivers. The regulations may provide for a basic primary and preventive health care services package, not to include all medical services covered by section 208.152, and may also

establish co-payment, coinsurance, deductible, or premium requirements for medical assistance under this subdivision. Eligibility for medical assistance under this subdivision shall be available only to those infants and children who do not have or have not been eligible for employer-subsidized health care insurance coverage for the six months prior to application for medical assistance. Children are eligible for employer-subsidized coverage through either parent, including the noncustodial parent. The division of family services may establish a resource eligibility standard in assessing eligibility for persons under this subdivision. The division of medical services shall define the amount and scope of benefits which are available to individuals under this subdivision in accordance with the requirement of federal law and regulations. Coverage under this subdivision shall be subject to appropriation to provide services approved under the provisions of this subdivision;

(16) The division of family services shall not establish a resource eligibility standard in assessing eligibility for persons under subdivision (12), (13) or (14) of this subsection. The division of medical services shall define the amount and scope of benefits which are available to individuals eligible under each of the subdivisions (12), (13), and (14) of this subsection, in accordance with the requirements of federal law and regulations promulgated thereunder except that the scope of benefits shall include case management services;

(17) Notwithstanding any other provisions of law to the contrary, ambulatory prenatal care shall be made available to pregnant women during a period of presumptive eligibility pursuant to 42 U.S.C. Section 1396r-1, as amended;

(18) A child born to a woman eligible for and receiving medical assistance under this section on the date of the child's birth shall be deemed to have applied for medical assistance and to have been found eligible for such assistance under such plan on the date of such birth and to remain eligible for such assistance for a period of time determined in accordance with applicable federal and state law and regulations so long as the child is a member of the woman's household and either the woman remains eligible for such assistance or for children born on or after January 1, 1991, the woman would remain eligible for such assistance if she were still pregnant. Upon notification of such child's birth, the division of family services shall assign a medical assistance eligibility identification number to the child so that claims may be submitted and paid under such child's identification number;

(19) Pregnant women and children eligible for medical assistance pursuant to subdivision (12), (13) or (14) of this subsection shall not as a condition of eligibility for medical assistance benefits be required to apply for aid to families with dependent children. The division of family services shall utilize an application for eligibility for such persons which eliminates information requirements other than those necessary to apply for medical assistance. The division shall provide such application forms to applicants whose preliminary income information indicates that they are ineligible for aid to families with dependent children. Applicants for medical assistance benefits under subdivision (12), (13) or (14) shall be informed of the aid to families with dependent children program and that they are entitled to apply for such benefits. Any forms utilized by the division of family services for assessing eligibility under this chapter shall be as simple as practicable;

(20) Subject to appropriations necessary to recruit and train such staff, the division of family services shall provide one or more full-time, permanent case workers to process applications for medical assistance at the site of a health care provider, if the health care provider requests the placement of such case workers and reimburses the division for the expenses including but not limited to salaries, benefits, travel, training, telephone, supplies, and equipment, of such case workers. The division may provide a health care provider with a part-time or temporary case worker at the site of a health care provider if the health care provider requests the placement of such a case worker and reimburses the division for the expenses, including but not limited to the salary, benefits, travel, training, telephone, supplies, and equipment, of such a case worker. The division may seek to employ such case workers who are otherwise qualified for such positions and who are current or former welfare recipients. The division may consider training such current or former welfare recipients as case workers for this program;

(21) Pregnant women who are eligible for, have applied for and have received medical assistance under subdivision (2), (10), (11) or (12) of this subsection shall continue to be considered eligible for all pregnancy-related and postpartum medical assistance provided under section 208.152 until the end of the sixty-day period beginning on the last day of their pregnancy;

(22) Case management services for pregnant women and young children at risk shall be a covered service. To the greatest extent possible, and in compliance with federal law and regulations, the department of health and senior services shall provide case management services to pregnant women by contract or agreement with the department of social services through local health departments organized under the provisions of chapter 192, RSMo, or chapter 205, RSMo, or a city health department operated under a city charter or a combined city-county health department or other department of health and senior services designees. To the greatest extent possible the department of social services and

the department of health and senior services shall mutually coordinate all services for pregnant women and children with the crippled children's program, the prevention of mental retardation program and the prenatal care program administered by the department of health and senior services. The department of social services shall by regulation establish the methodology for reimbursement for case management services provided by the department of health and senior services. For purposes of this section, the term "case management" shall mean those activities of local public health personnel to identify prospective Medicaid-eligible high-risk mothers and enroll them in the state's Medicaid program, refer them to local physicians or local health departments who provide prenatal care under physician protocol and who participate in the Medicaid program for prenatal care and to ensure that said high-risk mothers receive support from all private and public programs for which they are eligible and shall not include involvement in any Medicaid prepaid, case-managed programs;

(23) By January 1, 1988, the department of social services and the department of health and senior services shall study all significant aspects of presumptive eligibility for pregnant women and submit a joint report on the subject, including projected costs and the time needed for implementation, to the general assembly. The department of social services, at the direction of the general assembly, may implement presumptive eligibility by regulation promulgated pursuant to chapter 207, RSMo;

(24) All recipients who would be eligible for aid to families with dependent children benefits except for the requirements of paragraph (d) of subdivision (1) of section 208.150;

(25) All persons who would be determined to be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits, under the eligibility standards in effect December 31, 1973[, or those supplemental security income recipients who would be determined eligible for general relief benefits under the eligibility standards in effect December 31, 1973, except income; or less restrictive standards as established by rule of the division of family services]; **except that, on or after July 1, 2002, less restrictive income methodologies, as authorized in 42 U.S.C. Section 1396a (r)(2), shall be used to raise the income limit to eighty percent of the federal poverty level and, as of July 1, 2003, less restrictive income methodologies, as authorized in 42 U.S.C. Section 1396a(r)92), shall be used to raise the income limit to ninety percent of the federal poverty level and, as of July 1, 2004, less restrictive income methodologies, as authorized in 42 U.S.C. Section 1396a(r)92), shall be used to raise the income limit to one hundred percent of the federal poverty level.** If federal law or regulation authorizes the division of family services to, by rule, exclude the income or resources of a parent or parents of a person under the age of eighteen and such exclusion of income or resources can be limited to such parent or parents, then notwithstanding the provisions of section 208.010:

(a) The division may by rule exclude such income or resources in determining such person's eligibility for permanent and total disability benefits; and

(b) Eligibility standards for permanent and total disability benefits shall not be limited by age;

(26) Within thirty days of the effective date of an initial appropriation authorizing medical assistance on behalf of "medically needy" individuals for whom federal reimbursement is available under 42 U.S.C. 1396a (a)(10)(c), the department of social services shall submit an amendment to the Medicaid state plan to provide medical assistance on behalf of, at a minimum, an individual described in subclause (I) or (II) of clause 42 U.S.C. 1396a (a)(10)(C)(ii);

(27) Persons who have been diagnosed with breast or cervical cancer and who are eligible for coverage pursuant to 42 U.S.C. 1396a (a)(10)(A)(ii)(XVIII). Such persons shall be eligible during a period of presumptive eligibility in accordance with 42 U.S.C. 1396r-1.

2. Rules and regulations to implement this section shall be promulgated in accordance with section 431.064, RSMo, and chapter 536, RSMo. [No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.] **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.**

3. After December 31, 1973, and before April 1, 1990, any family eligible for assistance pursuant to 42 U.S.C. 601 et seq., as amended, in at least three of the last six months immediately preceding the month in which such family became ineligible for such assistance because of increased income from employment shall, while a member of such family is employed, remain eligible for medical assistance for four calendar months following the month in which such family would otherwise be determined to be ineligible for such assistance because of income and resource limitation.

After April 1, 1990, any family receiving aid pursuant to 42 U.S.C. 601 et seq., as amended, in at least three of the six months immediately preceding the month in which such family becomes ineligible for such aid, because of hours of employment or income from employment of the caretaker relative, shall remain eligible for medical assistance for six calendar months following the month of such ineligibility as long as such family includes a child as provided in 42 U.S.C. 1396r-6. Each family which has received such medical assistance during the entire six-month period described in this section and which meets reporting requirements and income tests established by the division and continues to include a child as provided in 42 U.S.C. 1396r-6 shall receive medical assistance without fee for an additional six months. The division of medical services may provide by rule the scope of medical assistance coverage to be granted to such families.

4. For purposes of section 1902(1), (10) of Title XIX of the federal Social Security Act, as amended, any individual who, for the month of August, 1972, was eligible for or was receiving aid or assistance pursuant to the provisions of Titles I, X, XIV, or Part A of Title IV of such act and who, for such month, was entitled to monthly insurance benefits under Title II of such act, shall be deemed to be eligible for such aid or assistance for such month thereafter prior to October, 1974, if such individual would have been eligible for such aid or assistance for such month had the increase in monthly insurance benefits under Title II of such act resulting from enactment of Public Law 92-336 amendments to the federal Social Security Act (42 U.S.C. 301 et seq.), as amended, not been applicable to such individual.

5. When any individual has been determined to be eligible for medical assistance, such medical assistance will be made available to him for care and services furnished in or after the third month before the month in which he made application for such assistance if such individual was, or upon application would have been, eligible for such assistance at the time such care and services were furnished; provided, further, that such medical expenses remain unpaid.

6. The department of social services may apply to the federal Department of Health and Human Services for a Medicaid waiver amendment to the section 1115 demonstration waiver or for any additional Medicaid waivers necessary and desirable to implement the increased resource limit, as authorized in subdivision (4) of subsection 2 of section 208.010 and to implement the increased income limit, as authorized in subdivision (25) of subsection 1 of section 208.151.”; and

Further amend the title and enacting clause accordingly.

Senate Amendment No. 2

AMEND Senate Substitute for Senate Committee Substitute for House Substitute for House Committee Substitute for House Bill No. 3, Page 6, Section 208.553, Line 3, by striking the word “**thirteen**” and inserting in lieu thereof the word “**fourteen**”; and

Further amend said section, said page, Line 18, by adding after all of said line the following:

“The chairperson of the commission on special health, psychological and social needs of minority older individuals;”; and

Further amend said section, Page 7, Line 14, by adding after all of said line the following:

“2. Recognizing the unique medical needs of the senior African American population, the president pro tem of the senate, speaker of the house of representatives and governor will collaborate to ensure that there is adequate minority representation among legislative members and other members of the commission.”; and

Further renumber remaining subsections accordingly.

Senate Amendment No. 5

AMEND Senate Substitute for Senate Committee Substitute for House Substitute for House Committee Substitute for House Bill No. 3, Page 19, Section C, Line 2, by inserting the following after the word “**sections**” on said line: “**208.151 and**”.

*Senate Substitute Amendment No. 1
for
Senate Amendment No. 7*

AMEND Senate Substitute for Senate Committee Substitute for House Substitute for House Committee Substitute for House Bill No. 3, Page 18, Section 1, Lines 17-23, by striking all of said lines and inserting in lieu thereof the following:

“Section 1. If section 135.095 is found unconstitutional, it shall be non-severable from sections 208.550 through 208.571.”.

Emergency clause adopted.

In which the concurrence of the House is respectfully requested.

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate refuses to concur in **HCS SCS SBs 4, 1, 5 & 6, as amended**, and requests the House recede from its position and failing to do so, grant the Senate a conference thereon and the conferees be allowed to exceed the differences.

HOUSE BILL WITH SENATE AMENDMENTS

SS SCS HS HCS HB 3, as amended, relating to pharmaceutical assistance, was taken up by Representative Abel.

Representative Abel moved that the House refuse to adopt **SS SCS HS HCS HB 3, as amended**, and request the Senate to recede from its position or, failing to do so, grant the House a conference and the conferees be allowed to exceed the differences.

Which motion was adopted.

BILL CARRYING REQUEST MESSAGE

Representative Abel moved that the House refuse to recede from its position on **HCS SCS SBs 4, 1, 5 & 6, as amended**, grant the Senate a conference and the conferees be allowed to exceed the differences.

Which motion was adopted.

MESSAGES FROM THE SENATE

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate refuses to recede from its position on **SS SCS HS HCS HB 3, as amended**, and grants the House a conference thereon and the conferees be allowed to exceed the differences.

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the President Pro Tem has appointed the following Conference Committee to act with a like Committee from the House on **SS SCS HS HCS HB 3, as amended**: Senators Singleton, Steelman, Kenney, Quick and Mathewson.

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the President Pro Tem has appointed the following Conference Committee to act with a like Committee from the House on **HCS SCS SBs 4, 1, 5 & 6, as amended**: Senators Singleton, Steelman, Kenney, Quick and Mathewson.

APPOINTMENT OF CONFERENCE COMMITTEE

The Speaker appointed the following Conference Committee to act with a like Committee from the Senate on the following bills:

SS SCS HS HCS HB 3: Representatives Abel, Barry, Hollingsworth, Naeger and Portwood
HCS SCS SBs 4, 1, 5 & 6: Representatives Abel, Barry, Hollingsworth, Naeger and Portwood

ADJOURNMENT

On motion of Representative Crump, the House adjourned until 9:00 a.m., Friday, September 14, 2001.

CORRECTIONS TO THE HOUSE JOURNAL

Correct House Journal, Sixth Day, Wednesday, September 12, 2001, pages 39 and 40, roll call, by showing Representatives Berkstresser and Green (15) voting "aye" rather than "absent with leave".

Pages 40 and 41, roll call, by showing Representative Green (15) voting "aye" rather than "absent with leave".

Pages 43 and 44, roll call, by showing Representatives Green (15) and Long voting "no" rather than "absent with leave".

Pages 44 and 45, roll call, by showing Representatives Green (15) and Long voting "aye" rather than "absent with leave".

Pages 45 and 46, roll call, by showing Representatives Green (15), Hanaway and Long voting "aye" rather than "absent with leave".

HOUSE CALENDAR

EIGHTH DAY, FRIDAY, SEPTEMBER 14, 2001

BILLS IN CONFERENCE

SS SCS HS HCS HB 3, as amended, E.C. - Abel

HCS SCS SB 4, 1, 5 & 6, as amended, E.C. - Abel